

## **REMARKS**

Claims 1, 3-22, and 24-43 remain unchanged and are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejection in view of the remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1, 3, 20-22, 25, 42, and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Oki, et al. (U.S. Pub. No. 2003/0161633; "Oki") in view of Imajuku et al. (U.S. Pub. No. 2003/0147645; "Imajuku") in view of Hang Liu, "GMPLS-Based Control Plane for Optical Networks: Early Implementation Experience," 2002 ("Liu"). This rejection is respectfully traversed.

Oki qualifies as a prior art reference under 35 U.S.C. 102(e) as previously indicated by the Examiner. Applicant hereby asserts that Oki as well as the present application were, at the time of the invention, under an obligation to be assigned to the same entity, Nippon Telegraph and Telephone Corporation. Therefore, Oki does not constitute prior art in relation to the present application In accordance with §103(c).

Likewise, Imajuku qualifies as a prior art reference under 35 U.S.C. 102(e) as previously indicated by the Examiner. Applicant hereby asserts that Imajuku as well as the present application were, at the time of the invention, under an obligation to be assigned to the same entity, Nippon Telegraph and Telephone Corporation. Therefore, Imajuku does not constitute prior art in relation to the present application in accordance with §103(c).

Oki and Imajuku also appear to qualify as prior art under 35 U.S.C. 102(a). Applicant can overcome this rejection by perfecting its priority claim to the earliest priority Japanese patent application no. 2003-085423. MPEP 706.02(b). In this case, Japanese patent application no. 2003-085423 was filed on March 26, 2003 which is earlier than the publication date of either reference. Enclosed is an English translation of the priority document along with a statement as to the accuracy of the translation, thereby perfecting the priority claim to the underlying Japanese patent application. Thus, Oki and Imajuku do not constitute prior art in relation to the present application under 35 U.S.C. 102(a). Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

#### **ALLOWABLE SUBJECT MATTER**

Applicant acknowledges that the Examiner has allowed claims 4-19, 24, and 26-41.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this response is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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